

ORIGINAL

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**KERRY LANGSTAFF, et al**

Petitioners,

v.

**ALLEN A. MITCHELL, M.D.,  
SAMUEL M. LESKO, M.D., and  
TRUSTEES OF BOSTON UNIVERSITY**

Respondents.

§ **Civil Action No. 04-CV-11586-GAO**  
 § **Formerly No. 04-MBD-10128-GAO**  
 § **and No. 04-MBD-10137-GAO**

§ Related Civil Action:  
 § United States District Court for the  
 § Northern District of California, San  
 § Jose Division  
 § Civil Action No. 03-CV-01116  
 § KERRY LANGSTAFF, et al vs.  
 § MCNEIL CONSUMER &  
 § SPECIALITY  
 § PHARMACEUTICALS, et al

§  
 §

**PETITIONERS' LANGSTAFF PLAINTIFFS MOTION TO  
IMPOUND AND SEAL CONFIDENTIAL EXHIBITS TO  
PETITIONERS' MOTION FOR RECONSIDERATION**

TO THE HONORABLE JUDGE OF SAID COURT:

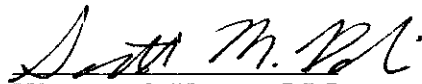
COME NOW, Petitioners, by and through their attorney of record, and files this Motion to Impound and Seal Confidential Exhibits to Petitioners' Motion for Reconsideration. Petitioners' Langstaff Plaintiffs ("Langstaff Plaintiffs") submit multiple exhibits to their Motion for Reconsideration to the Court. Certain exhibits were produced to Langstaff Plaintiffs in the underlying litigation pursuant to a Protective Order. The exhibits subject to the Protective Order from the sister Court are identified as Exhibits G, R, and S. However, for the sake of ease to the Court and parties, and in an abundance of caution, Langstaff Plaintiffs request that all exhibits to the Motion for Reconsideration be placed under seal and impounded from public inspection. In the alternative, Langstaff Plaintiffs request that Exhibits G, R, and S only be placed under seal and impounded from public inspection.

Pursuant to Local Rule 7.2, Langstaff Plaintiffs request that the impoundment period end 31 days after entry of order on Langstaff Plaintiffs Motion for Reconsideration, if there is no Notice of Appeal filed with the Court. If this matter is appealed to the Circuit Court, then

Langstaff Plaintiffs request that the impoundment period end 31 days after entry that such materials have been returned to the Court if further proceedings are not required and/or are not initiated by either party. If the matter has further proceedings at that point, then Langstaff Plaintiffs request that the impoundment period end 31 days after a final or dispositive order is entered. Upon expiration of the impoundment period, Langstaff Plaintiffs request that the Court destroy all materials that had been placed under impoundment, or in the alternative, Langstaff Plaintiffs will resume custody of said materials and retrieve them from the clerk.

**WHEREFORE, PREMISES CONSIDERED,** Petitioners respectfully request this Court grant Langstaff Plaintiffs Motion to Impound and Seal Confidential Exhibits to Petitioners' Motion for Reconsideration and grant Petitioners any and all other relief to which they may be justly entitled.

Respectfully submitted,



**WATERS & KRAUS, LLP**

SCOTT M. DOLIN

TX State Bar No. 24029523

CA State Bar No. 213321

ASHLEY W. MCDOWELL

TX State Bar No. 24005257

PETER A. KRAUS

TX State Bar No. 11712980

3219 McKinney Ave., Suite 3000

Dallas, Texas 75204

(214) 357-6244

(214) 357-7252 Fax

**COADY LAW FIRM**

EDWARD PAUL COADY

MA State Bar No. 546079

CHRISTOPHER P. DUFFY

MA State Bar No. 648402

205 Portland Street

Boston, MA 02114

(617) 742-9510

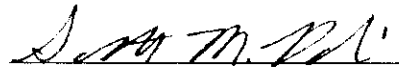
(617) 742-9509 Fax

**LAW OFFICES OF JAMES C. BARBER**  
JAMES C. BARBER  
TX State Bar No. 01706000  
4310 Gaston Avenue  
Dallas, Texas 75246  
(214) 821-8840  
(214) 821-3834 Fax

**MARY ALEXANDER & ASSOCIATES**  
MARY E. ALEXANDER  
CA State Bar No. 104173  
44 Montgomery Street, Suite 1303  
San Francisco, California 94101  
(415) 433-4440  
(415) 433-5440 Fax  
**ATTORNEYS FOR PETITIONER**

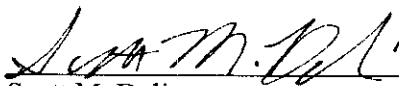
**CERTIFICATE OF SERVICE**

I certify that the foregoing Motion for Reconsideration was served on Boston University via United States mail and facsimile on this 21<sup>st</sup> day of July, 2004.

  
Scott M. Dolin

**CERTIFICATE OF CONFERENCE**

I certify that counsel for Petitioners has conferred with counsel for Respondents whom do not anticipate objecting to this Motion.

  
Scott M. Dolin

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

KERRY LANGSTAFF, et al

Petitioners,

v.

ALLEN A. MITCHELL, M.D.,  
SAMUEL M. LESKO, M.D., and  
TRUSTEES OF BOSTON UNIVERSITY

Respondents.

§ Civil Action No. 04-CV-11586-GAO  
§ Formerly No. 04-MBD-10128-GAO  
§ and No. 04-MBD-10137-GAO  
§

§ Related Civil Action:  
§ United States District Court for the  
§ Northern District of California, San  
§ Jose Division  
§ Civil Action No. 03-CV-01116  
§ KERRY LANGSTAFF, et al vs.  
§ MCNEIL CONSUMER &  
§ SPECIALITY  
§ PHARMACEUTICALS, et al  
§  
§

**PETITIONERS' LANGSTAFF PLAINTIFFS MOTION TO  
IMPOUND AND SEAL CONFIDENTIAL EXHIBITS TO  
PETITIONERS' MOTION FOR RECONSIDERATION**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2004, the Court considered Petitioners' Langstaff Plaintiffs Motion to Impound and Seal Confidential Exhibits to Petitioners' Motion for Reconsideration. After considering the motion, the Court **GRANTS** the motion, and hereby orders that all exhibits to Langstaff Plaintiffs Motion for Reconsideration be placed under seal and impounded from public inspection. The impoundment period will end 31 days after entry of a final or dispositive order and no appeal or continuation of this proceeding has been sought. Upon expiration of the impoundment period, the Court will destroy all materials that had been placed under impoundment.

Signed on the \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
HONORABLE JUDGE